

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X-----X

GUSTAVO BERMUDEZ,

PLAINTIFF,

07 CIV. 9537 (HB)

VS.

CITY OF NEW YORK POLICE  
DEPARTMENT AND THE UNITED  
STATES DRUG ENFORCEMENT  
ADMINISTRATION,

DEFENDANTS.

X-----X

AFFIDAVIT OF JOHN McNICHOLAS

I, John McNicholas, having been duly sworn, depose and state:

1. I am over the age of 18 years and understand the obligation of an oath.

2. I am a licensed private investigator in the State of Connecticut and a former New York City Police Department Detective.

3. On February 23, 2007 I began an investigation into the whereabouts of certain funds that had been seized from Gustavo Bermudez by the New York Police Department.

4. My investigation initially began with an examination of the Property Clerk's Invoice for seized property that was provided by the New York City Police Department to Mr. Bermudez.

5. Upon examination the legitimacy of the Property Clerk's Invoice was unclear in that it did not bear any official chronological voucher or invoice number which I know to be normal police procedure.

6. On February 23, 2007 I contacted the New York City Police Department Bronx Field Internal Affairs Unit and was advised that their office would investigate the matter but that a formal complaint must first be logged in at the Internal Affairs Command Center at 315 Hudson Street, New York, NY.

7. On February 23, 2007, I then contacted the New York Police Department Internal Affairs Unit and spoke with an Officer Bethell. I provided Officer Bethell with the particulars of the incident including the names, addresses, and telephone numbers of all parties concerned. Officer Bethell assigned IAD Log No. 07-0273.

8. Officer Bethell advised that she was in intake officer at IAD and advised me that an investigator would be contacting me for additional information and would likely set up an interview date.

9. At Officer Bethell's request I then faxed over a copy of the aforementioned invoice for seized property that did not bear any official chronological voucher number.

10. On March 9, 2007 I was contacted by Captain Miller of the Internal Affairs Department regarding the whereabouts of Mr. Bermudez's money.

11. Captain Miller indicated that the money was not seized by a New York Police Department Officer but instead by DEA Agents with members of the New York City Police Department assigned to them. Captain Miller indicated that the actual identities of the task force members were at that time not known to the Captain.

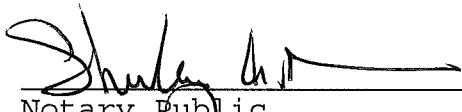
12. Captain Miller indicated that the voucher did not bear any official chronological voucher number because said voucher number had been "whited out" by members of the DEA as they did not have an invoice of their own to use.

13. Captain Miller then faxed me a copy of the DEA receipt for cash dated July 18, 2006 which designates that currency in Yellow Tag No. 0003617 in a blue money bag to the overnight vault under file no. C1-06-0121 with Special Agent Victoria Merzer and Ian Newkin signing at the bottom of the voucher.

THE AFFIANT

  
John McNicholas

Subscribed and sworn to before me  
this 13<sup>th</sup> day of March, 2008.

  
Notary Public  
My Commission expires:

Shirley A. Reinoso  
NOTARY PUBLIC  
State of Connecticut  
My Commission Expires  
June 30, 2010